

# EXHIBIT A

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

U.S. PATENT NO.: 9,185,291 ART UNIT: 3992  
CONTROL NUMBER: 90/014,987 CONF. NO.: 1987  
FILING DATE: March 23, 2022 EXAMINER: Colin M. Larose

**TITLE: DUAL APERTURE ZOOM DIGITAL CAMERA**

Mail Stop *Ex Parte* Reexam  
ATTN: Central Reexamination Unit  
Commissioner for Patents  
P. O. Box 1450  
Alexandria, VA 22313-1450

**PETITION FOR EXTENSION OF TIME UNDER 37 C.F.R. § 1.550(c)**

Dear Commissioner:

COREPHOTONICS LTD. (“Patent Owner”) hereby petitions for a two-month extension of time to file its response to the December 22, 2022 Office action in the *ex parte* reexamination proceeding of U.S. Patent No. 9,185,291 (“291 Patent”) with the control number 90/014,987 (“987 Reexam”). If granted, this Petition would extend the deadline for the response to April 24, 2023 (because April 22, 2023 is a Saturday and April 23, 2023 is a Sunday). The petition fee set forth in 37 C.F.R. 1.17(g) is paid herewith.

## **PERTINENT FACTS**

1. Upon receipt of the Office action for reexamination concerning the '987 Reexam, Patent Owner has been diligently reviewing the papers of record. Patent Owner has been in communication with its counsel in connection with the preparation of its response to the Office action. In addition, the patent owner and its counsel have been diligently identifying a

subject matter expert that is needed to provide expert opinions on the complex technical issues in the response.

2. The COVID-19 pandemic and the ongoing spike of the Omicron variants have significantly affected Patent Owner's ability to prepare and complete its response before the due date of February 22, 2023.
3. Due to the COVID-19 pandemic and the related travel restrictions, Patent Owner and its counsel have experienced significant delays in preparing its response to the Office Action and significant delays in identifying and retaining the subject matter expert.

#### **LEGAL AUTHORITY**

37 C.F.R. 1.550 provides, in relevant part:

- (c) The time for taking any action by a patent owner in an ex parte reexamination proceeding may be extended as provided in this paragraph.
- (1) Any request for such an extension must specify the requested period of extension and be accompanied by the petition fee set forth in § 1.17(g).
- (2) Any request for an extension in a third party requested ex parte reexamination must be filed on or before the day on which action by the patent owner is due, and the mere filing of such a request for extension will not effect the extension. A request for an extension in a third party requested ex parte reexamination will not be granted in the absence of sufficient cause or for more than a reasonable time.

(3) Any request for an extension in a patent owner requested or Director ordered ex parte reexamination for up to two months from the time period set in the Office action must be filed no later than two months from the expiration of the time period set in the Office action. A request for an extension in a patent owner requested or Director ordered ex parte reexamination for more than two months from the time period set in the Office action must be filed on or before the day on which action by the patent owner is due, and the mere filing of a request for an extension for more than two months from the time period set in the Office action will not effect the extension. The time for taking action in a patent owner requested or Director ordered ex parte reexamination will not be extended for more than two months from the time period set in the Office action in the absence of sufficient cause or for more than a reasonable time.

MPEP 2265 provides in relevant part:

Requests for any extension of time in third party requested reexaminations, and requests for an extension of more than two months from the time period set in the Office action in patent owner requested or Director ordered reexaminations, must include a showing of sufficient cause, and the extension must be for a reasonable time.

Any evaluation of whether sufficient cause has been shown for an extension must balance the need to provide the patent owner with a fair opportunity to present an argument against any attack on the patent, and the requirement of the statute (35 U.S.C. 305) that the proceeding be conducted with special dispatch.

Any request for an extension of time, except for the "no cause" extension in patent owner requested or Director ordered reexamination provided in 37 CFR 1.550(c), must fully state the reasons therefor. The reasons must include a statement of what action the patent owner has taken to provide a response as of the date the request for extension is submitted, and why, in spite of the action taken thus far, the requested additional time is needed. The statement must include a factual accounting of reasonably diligent behavior by all those responsible for preparing a response to the outstanding Office action within the statutory time period.

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However, in third party requested ex parte reexaminations, a first request for an extension of time will generally be granted if a sufficient cause is shown, and for a reasonable time specified — usually one month. The reasons stated in the request will be evaluated by the CRU SPRS or TC Director, and the requests will be favorably considered where there is a factual accounting of

reasonably diligent behavior by all those responsible for preparing a response within the statutory time period. Second or subsequent requests for an extension of time and requests for an extension of more than one month in third party requested reexaminations will only be granted in extraordinary situations.

## **DISCUSSION**

In support of this Petition, Patent Owner states as follows:

Despite Patent Owner's substantial efforts and resources devoted to this reexamination, the two-month period for filing a response to the December 22, 2022 Office action in the '987 Reexam is unduly burdensome. Without a two-month extension of time, which is warranted during the extraordinary situation arising from the COVID-19 pandemic and the spike of the Omicron variants, Patent Owner will be significantly prejudiced.

Patent Owner requires the two-month extension to overcome substantial delays resulting from the COVID-19 pandemic and the spike of the Omicron variants. Because of the COVID-19 pandemic, Patent Owner's efforts coordinate the drafting and preparing of the response to the December 22, 2022 Office action have been significantly delayed by the COVID-19 pandemic. Due to the COVID-19 pandemic, Patent Owner's operations have been significantly delayed because of the shift to remote work.

Given the need to coordinate input between Patent Owner, Patent Owner's counsel, and Patent Owner's subject matter expert, Patent Owner respectfully requests a two-month extension of time to allow Patent Owner to coordinate schedules and receive such input. The current two-month time period to prepare this response is insufficient due to the conflicting schedules and remote locations of all parties involved.

Patent Owner respectfully submits that, with the two-month extension, the proceedings will proceed with “special dispatch” under 35 U.S.C. 305, while providing the Patent Owner with a fair opportunity to prepare and file a response to the Office action. A two-month extension in this reexamination would provide a due date of April 24, 2023 (because April 22, 2023 is a Saturday and April 23, 2023 is a Sunday).

### **CONCLUSION**

Given the foregoing, Patent Owner believes that this extraordinary situation warrants additional time needed to prepare its response to the December 22, 2022 Office action. Because of substantial delays arising from the COVID-19 pandemic, Patent Owner respectfully requests a two-month extension of time in which to file its response to the December 22, 2022 Office action in the *ex parte* reexamination proceeding of '291 Patent in the '987 Reexam. The requested two-month extension would extend the current due date of February 22, 2023 to April 24, 2023 (because April 22, 2023 is a Saturday and April 23 is a Sunday).

The Commissioner is further authorized to deduct any underpayment of fees or any additional fees required in connection with the filing of this paper from Deposit Account No. 603614.

Dated: January 25, 2023

Respectfully submitted,

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